



## COMMUNITY DEVELOPMENT DEPARTMENT

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### PLANNING COMMISSION MEETING MINUTES

#### REGULAR MEETING

**JUNE 8, 2010**

PRESENT: Tanda, Mueller, Escobar, Hart, Koepp-Baker, Liegl, Moniz

ABSENT: None

LATE: None

STAFF: Interim Community Development Director (ICDD) Piasecki, Planning Manager (PM) Rowe, and Development Services Technician (DST) Bassett

Chair Tanda called the meeting to order at 7:00 p.m., inviting all present to join in reciting the pledge of allegiance to the U.S. flag.

#### **DECLARATION OF POSTING OF AGENDA**

Development Services Technician Bassett certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

#### **OPPORTUNITY FOR PUBLIC COMMENT**

Chair Tanda opened, and then closed, the floor to public comment for matters not appearing on the agenda as none were in attendance indicating a wish to address such matters.

#### **MINUTES:**

**April 13, 2010**

**COMMISSIONERS MUELLER AND KOEPP-BAKER MOTIONED TO APPROVE THE APRIL 13, 2010 MINUTES.**

**THE MOTION PASSED (6-0-0-0) WITH THE FOLLOWING VOTE: AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

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### **PRESENTATION:**

**1) PRESENTATION BY BEYOND MEASURE A :** Beyond Measure A (BMA) will present their Draft Report on the results of their community workshops regarding the revitalization of the downtown.

Bert Berson and Julie Hutcheson appeared and presented their report.

### **OTHER BUSINESS:**

Berson: The fundamental idea about the downtown is “people connecting.”

Hutcheson: The BMA group sought to further community engagement as a public service. Open forum workshops were used as a way to get community views. The data collected has been developed into guiding principles. It is hoped that these guiding principles will be used to support the developer, the City, the Chamber of Commerce, and the Downtown Association in a successful downtown revitalization. Preliminary findings are that there is validation of the downtown specific plan. And there is a definite community interest to make downtown a destination.

Berson: The guiding principles are to: 1) Create a master economic plan; 2) Integrate open space by cleaning up the creek and perhaps finding an access path to the creek; 3) Ensure safety and police presence; 4) Provide multi-modal transportation into and around downtown; and 5) Make entertainment and activities available. Those things matched the Downtown Specific Plan very well. It became clear that the work downtown must be viewed as a whole—both the people and the buildings. Also, it was felt that a multi-cultural recognition in the downtown area would be important.

Escobar: How many workshops were conducted?

Berson: Nine.

Escobar: Where were they held?

Hutcheson: All over the community, i.e., with the Youth Action Council, at the Senior Center, with the Morgan Hill Community Foundation, etc. We made it clear that we did not represent any one specific group of interests but that we were there because they were members of the community.

Moniz: Did you have a consensus about the general satisfaction of the public with the downtown plan?

Hutcheson: It would have to be categorized as a “mixed bag,” including what to do with the Granada Theater.

Mueller: What do you need to do to finalize the report?

Hutcheson: There is a lot of data to analyze and organize. We’re still in that process.

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Sue: When do you anticipate having your final report for Council?

Hutcheson: The goal is to have it ready at the end of the month.

Mueller: Will you be presenting it again to Planning Commission?

Hutcheson: We would be happy to.

Tanda: The downtown has changed and improved a lot in recent years. Could a survey be done to find out why people are supporting the downtown so much now? And also what people like and don't like?

Piasecki: That is something we've thought about and it's an excellent suggestion.

Tanda: Thank you to all who have participated.

### **2) SELECTION OF CHAIR/VICE CHAIR**

Selection of members to serve as Chair and Vice-Chair for a one-year term in accordance with City Council adopted policy.

Rowe presented his staff report. Based on the City Council policy, the current Vice-Chair, who is Commissioner Mueller, would become the next Chairperson. And Commissioner Moniz, who is next in line, would serve as Vice-Chair. These terms are for one year, until June 1, 2011.

**COMMISSIONERS ESCOBAR AND KOEPP-BAKER NOMINATED JOE MUELLER TO SERVE AS CHAIR.**

**THE MOTION PASSED (6-0-0-0) WITH THE FOLLOWING VOTE:  
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

**COMMISSIONERS ESCOBAR AND KOEPP-BAKER MOTIONED FOR JOHN MONIZ TO SERVE AS VICE-CHAIR.**

**THE MOTION PASSED (6-0-0-0) WITH THE FOLLOWING VOTE:  
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

Tanda thanked everyone for the opportunity to have served as Chair. Mueller then took over as Chairperson.

### **3) EXCEPTION TO LOSS OF BUILDING ALLOCATION: ELBA-10-04: E. DUNNE-KRUSE:**

The applicant requests an Exception to Loss of Building Allocation for three building allotments awarded under the Micro Measure C competition for fiscal year 2006-2007. The applicant requests to extend the allotments to December 2014.

Rowe presented his staff report and stated that the CEQA report (biological surveys) has held the project up for a number of years, so an extension is merited. However, the length of the extension requested cannot be justified, as it goes beyond what is necessary for the survey to be completed. Staff is recommending a three year extension.

Moniz: There have been 3 units allocated for some time now. Why not conform to

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the applicant's request?

Rowe: We're just comparing to the extensions given to other projects and also looking at potential alternatives for dealing with the environmental impacts.

Moniz: Have you spoken to the applicant since this report came out? Does he have any problem with the three years?

Rowe: No. He is present and can answer for himself.

Mueller: The staff report said that one alternative was to complete a mini Habitat Conservation Plan (HCP), right? What is the time frame or the cost for that?

Rowe: I don't have the costs, but in my experience with other projects, it could take longer than the two seasonal surveys process. The county prefers regional HCP's, rather than a mini HCP.

Koepp-Baker: In the view of Planning, could a redesign of the parcels be done easily?

Rowe: That hasn't been investigated yet, but we're asking the applicant to explore that as one possible approach.

Mueller opened the floor to public hearing.

Neil Kruse, owner, appeared on behalf of the project.

Kruse: The reason four years was requested was because the adoption of the HCP has been consistently delayed. We want to get the project started as early as possible but have asked for four years just in case, so we won't have to come back if the Tiger Salamander study can't be completed in time and ask for another extension.

Mueller: If he participates in the county-wide HCP, would the applicant still need to complete the surveys?

Rowe: No.

Mueller: As soon as the HCP is adopted, then they'll have certain mitigations and fees that they'll have to agree to in order to develop. But does the November 11 date give the HCP plan the General Take permits that they're going to be required?

Rowe: The expectation is that that would be enough time.

Tanda: Are those parcels large enough that the houses could be repositioned outside of the sensitive areas?

Kruse: The sensitive area is a small stock pond. That is why the surveys are required. But the place where the homes are positioned is the only place that is acceptable due to the slope of the land.

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Tanda: Could you put an easement on the most sensitive areas so that they would be preserved?

Kruse: I don't believe the Fish & Game Department is even entertaining that idea. They are pushing for the adoption of the county-wide HCP.

Moniz: Are the areas that aren't hatched the potential building sites?

Kruse: No, those areas are too steeply sloped. There are only about 8 acres that have less than 20 percent slope.

Mueller closed the floor to public comment.

Rowe: We're talking about 18 month's difference between staff's recommendation and applicant's request. Staff's recommendation is for June 30, 2013, and applicant's request is for Dec. 31, 2014.

**COMMISSIONERS MONIZ AND ESCOBAR MOTIONED TO EXTEND THE DATES AS REQUESTED BY APPLICANT.**

**Discussion:**

Escobar: Is there a big reason not to honor applicant's request? We're not certain that the HCP can be completed during the time requested.

Piasecki: We are concerned about being equitable to all applicants with their extension requests. And the applicant could always apply for another extension, if circumstances warranted.

Escobar: Isn't this project somewhat unique by the requirement of Fish and Game for the HCP?

Piasecki: It is, but we think there is a redesign option that hasn't been explored yet. You're correct in that we're not sure if it is going to be in the City's interest to follow the county HCP. But what it really came down to was being an equity issue.

Rowe: Another possibility is that the applicant could proceed with the two seasonal surveys in the Springs of 2011 and 2012. If they came back negative, and it's not identified as a habitat area, then there would be no mitigation required. But the extension allows for a deferral of those surveys until it is identified whether there is a county HCP or not.

Tanda: Is it possible that there is a redesign that would negate the need to participate in the salamander surveys?

Rowe: That hasn't been determined at this time. We are asking staff to look into that. There is a possibility that the buildings could be clustered or repositioned, which might then avoid the foraging areas for the species entirely. That is something that could be pursued.

Escobar: But that could be done whether it is a four-year or two-year extension,

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right?

Mueller: It's really a three year extension. And considering the extensions already given, another four-year extension would go well beyond the norm. But we also need to be sensitive to the process that the applicant has to go through.

Moniz: I don't think 3 years or 4 ½ years makes a big difference.

Liegl: I tend to agree with staff. I don't want to set precedence with too long of an extension.

Koepp-Baker: I also agree with staff. We've had projects in the past that we have not extended beyond 18 months and they've had environmental issues or an outside agency that was involved as well.

Escobar: But If the usual amount is two years, we've already crossed the line with a three-year extension. So why not allow the 4 ½ years requested by applicant?

Mueller: Staff is saying that three years is consistent with extensions given for other projects. And we need to keep a little pressure on this project to keep it moving forward.

**COMMISSIONERS MONIZ AND ESCOBAR MOTIONED TO EXTEND THE DATES AS REQUESTED BY APPLICANT TO DECEMBER 2014.**

**THE MOTION FAILED (2-4-0-0) WITH THE FOLLOWING VOTE:  
AYES: ESCOBAR AND MONIZ; NOES: TANDA, MUELLER, KOEPP-BAKER, LIEGL; ABSTAIN: NONE; ABSENT: NONE.**

**COMMISSIONERS ESCOBAR AND MONIZ MOTIONED TO EXTEND THE DATE TO JUNE 30, 2013 AS PROPOSED BY STAFF AND FORWARD TO CITY COUNCIL FOR APPROVAL.**

**THE MOTION PASSED (6-0-0-0) WITH THE FOLLOWING VOTE:  
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

## **4)RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) NUMBER OF ALLOCATIONS FOR UPCOMING COMPETITION AND DISTRIBUTION OF ALLOTMENTS BY COMPETITION**

Adopt a Resolution with a recommendation to forward to City Council for approval.

Rowe presented his staff report and stated that this survey is done every two years.

Rowe: One thing we are required to do is make adjustments for any backlog. We have found that there are about 552 units that have not been completed on time, as projected. One consideration is that adjustments need to be made to account for subdivisions that have been annexed, but those populations do not count against the population cap. In 2006 we annexed a subdivision called El Dorado. So we have adjusted the amount down by subtracting out El Dorado. Other considerations to look at are projects in the downtown core and senior projects with 1 and 2 bedroom units. So we counted those units and adjusted the numbers down to account for fewer persons per household for that size of a unit. We ultimately arrived at a

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### CATEGORIES:

figure of 203 units to be allocated for FY 2012-13. We have come up with a spreadsheet showing that 1210 allocations have been awarded through 2012. While that is a significant backlog, not holding the competition is not an option due to statutory requirements. But we can focus on specific types of allocations to meet the needs of the community. Certain types of allocations were not made because there were no applications for that type of housing. So some adjustments will have to be made there in the future. We are recommending that a portion of the allocations be used for ongoing set-asides. That would make ongoing projects eligible for up to 15 units per year without having to compete.

Escobar: Is the option to extend into the second competing year available for all categories?

Rowe: Yes.

Escobar: Are Jarvis-South Valley Developers and Mission View the only two projects eligible for ongoing set-asides?

Rowe: Yes. Monterey-Dynasty was not eligible for ongoing set-asides this year because they did not receive planning entitlements for the first 60 units, which they would need to have done by February 2010.

Mueller called for a break at 8:05.

**Commissioner Liegl excused himself from the meeting at 8:06 p.m.**

The meeting was reconvened at 8:15.

Koepp-Baker: Is there a benefit to increasing the numbers for multi-family rentals or senior projects, instead of giving them to the ongoing set-aside category?

Rowe: It could be said that those two eligible projects already have enough on their plates and have been given enough allocations, so that those allocations could be reserved for something else.

Mueller: It is my recommendation that any project with at least 45 allocations already in hand should not be given more. That is 3 year's worth of ongoing allocations. Why would you need more if you're not actively building?

Koepp-Baker: Would it be an incentive to developers to build multi-family if we saved those ongoing set asides for the multi-family category?

Mueller: Jim Rowe and I talked, and it's really only 197 units available to be allocated. So the less we give away for ongoing, the better off we are for flexibility in other categories.

Tanda: One of the categories that appear to have been left off, in addition to custom lots, is called small vertical mixed use. Is that correct?

Rowe: That is true. But staff believes that the small vertical mixed use projects can

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be accommodated in the CCR/CLR category. Also, small vertical mixed use project are more likely to development in the Downtown and the Downtown Area is now exempt from the RDSCS under Measure A approved in 2009. At the time the small vertical mixed use category was created, those projects had to compete in the RDSCS as required under Measure C adopted in 2004.

Tanda: If no one competes in that category, then should we do away with it?

Rowe: No, because it's not a detriment to the other categories to keep it. The recommendation is that we reserve ten units for the CCR/CLR category instead. Another reason we're not recommending small vertical mixed use is because we already have allotments available in the downtown.

Tanda: What is the rationale for limiting it to ten in the CCR/CLR category?

Rowe: Section 2.b of the Resolution states that the allotments may be adjusted by the Planning Commission as deemed necessary to respond to changes in the housing market. That is one thing that you might want to make as your recommendation--that there be more than ten awarded in the CCR/CLR category. I can pretty much guarantee that the amounts recommended by staff tonight will be different than the amounts actually awarded.

Moniz: Can we add a category by the time this is finished?

Rowe: Once those competition categories have been recommended they usually do not change, because they're submitted to council and they're made available to the development community.

Mueller: I don't think Monterey-Dynasty can be considered as an ongoing project, because they competed under mixed use, 100 percent rental. Could they compete under another category?

Tanda: They could compete under Open Market.

Mueller opened the floor to public comment.

Dick Oliver appeared on behalf of Dividend Homes with a number of ongoing projects.

Oliver: One unique situation I have is that I am contractually obligated to the Borello Family to make a Measure C application every year. But the Borello family has indicated that they probably are going to compete and ask for a lot more than the 15 ongoing set-asides.

Mueller: It is true that the ongoing set-aside category was established to make it simple for developers so they would not have to compete every year. They can always compete for more, though, if they would like. But we should only give ongoing set-asides to projects that show they're ready to move forward.

Oliver: I would request that if you decide not to allocate 15 units automatically one

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year, the policy should be reinstated the next year.

Mueller: I agree.

Maureen Upton appeared on behalf of the Diana-Chan project and stated that they are moving forward with their plans to sell to KB homes.

Mueller closed the floor to public hearing.

Escobar: Shouldn't the number of allotments we are looking at really be 197, rather than 203?

Rowe: Correct.

Escobar: We may not need to use the 30 recommended for the ongoing category. It might be more appropriate to reallocate those for other categories because of the backlog of 1,210 dwelling units still pending.

Sue: My recommendation would be to allocate half at most. We need to re-incentivize providing the low and very low income housing that the community needs. We are seriously short in that category.

Moniz: Is it two years in a row without affordable applications?

Rowe: Yes.

Tanda: I agree with cutting back on the ongoing set-asides. I'd like to see the CCR/CLR category increased.

Mueller: So you're saying reduce the set-asides, not eliminate?

Tanda: I'm not sure at this point; I believe we need to understand what eliminating really means.

Mueller: Then my suggestion is that if a project already has 45 allocations or more, and they're not currently building, that they not be given ongoing set-asides this year. That doesn't mean that the next year they couldn't be given 15 allocations when they start building again. And as Mr. Oliver indicated, that won't prevent projects from competing for more than 15 if they want. But then they have to take that proactive step and compete with everyone else.

Tanda: How many projects would qualify for set-asides?

Rowe: Right now it's only two but the Peet-Borello project could be eligible by February 2011. The policy that addresses this, which was modified in October of last year, says that if competitions occur annually, the projects that complete at least 50 percent of their entitlements within one year of receiving them can be eligible to receive ongoing set-asides. The question is does a project have to pull 50% of its permits to be considered as ongoing?

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Tanda: You're saying that there would be no projects that would qualify for ongoing?

Rowe: Right now, under City policy, there would be two that would qualify, but under Joe's recommendation those projects could not receive ongoing set-asides because they already have 45 units allocated. We could then move those allocations elsewhere.

Tanda: So under Joe's scenario, we would not be allocating any ongoing set-asides. But that, in effect, is the same as Sue's suggestion that we suspend set-asides for one year.

Mueller: The difference is that under Sue's scenario some projects could have a gap in building if the market turned around. Under mine, the projects that are potentially eligible if they complete certain steps in time, could receive allocations if we leave some available, but don't give them to projects with 45 outstanding. I'm just trying to avoid the gaps. All of these projects have the option of coming back and applying again for more.

Oliver: We have an application with Bank of the West to fund the next phase. We have every indication that we will be under construction before February. Can you clarify if that means we would qualify for the ongoing?

Mueller: Actually, that would, because if you're under construction a year from now, then you would be back on track and would be eligible for the ongoing set-asides. That means we still need to leave that category in place but just show 0 units being allocated.

Tanda: Does the City really need more rules? Can't we just make a decision based on the merits of a project?

Mueller: We need to clarify why we're putting zero in a category so that we can control projects from automatically getting more allocations when they could be applied to other projects that are more deserving. But we leave the category there to allow a project to move forward if it becomes eligible. This is a way of tightening up on the ongoing set-asides for projects that aren't really building.

Tanda: But we always make a determination of what projects get what allocations anyway. Why do we have to make another rule? And if we're going to show ongoing set-asides as zero, then shouldn't we also include small vertical mixed use and custom as zero also?

Rowe: Projects could compete in the micro category to get around that. There has to be some sort of number so that projects know what to expect if they do compete because it is an expensive process. Then if there is a category which receives no applications, those numbers could be redistributed somewhere else.

Mueller: It seems there is a consensus to reduce the set-asides.

Escobar: Yes, providing a lower number has merit because it still leaves some

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allocations available for projects that could be ready in time.

Mueller: We need to go back to Exhibit A and reallocate. The corrected total would be 197, not 203. The ongoing would go to 0. Then I suggest we put all 30 into open market with an asterisk that if a project qualifies for ongoing set-asides, they would come from open market.

Escobar: It doesn't really matter where we redistribute right now, because these numbers are going to be modified by the time they're actually awarded. With that in mind, they ought to go into categories that have a need or that we want to see more activity in, such as affordable and CCR/CLR.

Tanda: I agree.

Escobar: So maybe we take the remaining 24 and divide them into two or three other categories, rather than putting them all into open market. In the final analysis, those numbers are all going to change.

Mueller: We could make the affordable 35 and double the CCR/CLR to be 20 and put the balance of 9 into open market.

Rowe: That would be 66 for open market, 35 for affordable, 0 for ongoing, 6 for micro, 20 for CCR/CLR, 30 for Senior, and 10 for small.

Mueller: Should Monterey-Dynasty be eligible for ongoing? The consensus seems to be "no" and that they would have to compete because they're a hybrid project.

Rowe: And Borello would have to pull permits for 50 percent of the project's first phase in order to be eligible for ongoing set-asides. Or they can choose to compete for more.

Mueller: Would it be wise to add a section to the Resolution to state that the reduction in ongoing set-asides is intended to be a one-year adjustment only?

Rowe: It could be added as Section 2E.

**COMMISSIONERS ESCOBAR AND KOEPP-BAKER MOTIONED THAT SECTION 2E BE CREATED TO RECOGNIZE THAT THE ZERO ALLOCATION ON EXHIBIT A UNDER ONGOING PROJECTS IS FOR A ONE-YEAR TIME PERIOD, AND THAT EXHIBIT A BE CHANGED TO SHOW A TOTAL OF 197 ALLOCATIONS.**

**THE MOTION PASSED (5-0-0-1) WITH THE FOLLOWING VOTE:  
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: LIEGL.**

Escobar: Do we need to institute a policy change for those rules, or can that be done on our own?

Rowe: It would be a recommendation to make a change to the policy.

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Tanda: Would this be a policy amendment that is applicable only for one year, or would it be institutionalized?

Mueller: It would go into the policy statement but it would be noted that it's just a temporary suspension. As long as a project is building, it can have the ongoing set-asides.

Piasecki: Mr. Oliver is wondering if that's going to mess up the 33 percent that has to be allotted for single family units.

Rowe: It is in the Resolution, so that's something that might affect the final numbers.

Upton: For clarification, if a project became eligible for ongoing, then they would have the opportunity to get those ongoing? Is that going to be part of the policy?

Rowe: If it is determined in February that there are eligible projects, then the Commission could choose to leave some allotments open for that.

Mueller: And a project is always free to compete.

Mueller then concluded Agenda Item 4 and moved on to Agenda Item 5.

### **5)REGIONAL HOUSING NEEDS ALLOTMENT (RHNA) ANNUAL PROGRESS REPORT**

Approval of the Regional Housing Needs Annual Report.

Rowe presented his staff report and stated that there has been a significant drop off of new construction and some BMR units have been lost through the BMR reduction program.

Tanda: Is it the collective opinion of staff that we've bottomed out as far as new home construction starts?

Rowe: It looks like we hit the bottom in November. Because so few homes were built last year, we really don't have any new homes in outstanding inventory, and those that have come available are selling right away.

Mueller: It seems that the people that are building right now are all really large public builders. Have any of our small, local builders gotten any normal bank financing?

Rowe: I don't know. We'd have to talk to the builders. Mr. Oliver indicated that he might have something in February.

Mueller: Should we look at doing something with the BMR rate target for this competition and focus it only on low so that we increase that low category over the median?

Rowe: We could do that. It would require you to make an amendment to the evaluation criteria.

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Mueller: Don't we have to do that anyway when the small lot comes through?

Rowe: Yes, and that will be reviewed next month.

**6)SUMMER  
MEETING  
SCHEDULE:**

Discussion and approval of Summer Meeting Schedule.

Rowe: In the past it has sometimes been difficult to have a quorum of Commissioners in the summer. Also, for budgetary reasons we will be looking at opportunities to cancel meetings if they are not necessary. Do you want to take a break for the summer meetings? Typically, that would be the second meeting in August, or August 24<sup>th</sup>.

**COMMISSIONERS ESCOBAR AND TANDA MOTIONED TO CANCEL THE SECOND MEETING IN AUGUST.**

**THE MOTION PASSED (5-0-0-1) WITH THE FOLLOWING VOTE:  
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: LIEGL.**

**ANNOUNCEMENTS/  
COMMISSIONER  
IDENTIFIED ISSUES**

Moniz: I will be absent from the next meeting.

Mueller: Has there been an appointment for the 7<sup>th</sup> Planning Commissioner?

Rowe: No. No applications have been received. The seat will remain open until it is filled.

**CITY COUNCIL  
REPORTS**

None.

**ADJOURNMENT**

Noting that there was no further business for the Planning Commission at this meeting, Chair Mueller adjourned the meeting at 9:30 p.m.

**MINUTES RECORDED AND TRANSCRIBED BY:**

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**ELIZABETH BASSETT, Development Services Technician**

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